

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

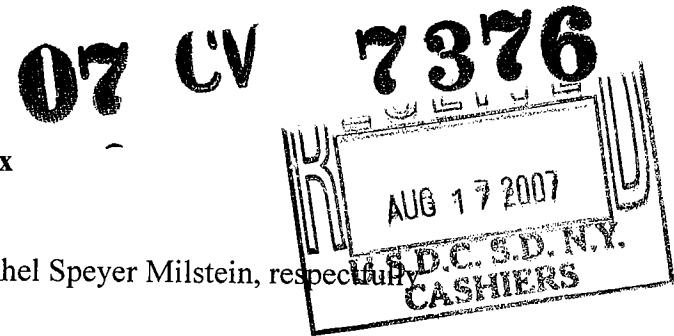
Judge Rakhel Speyer Milstein
Sameer KOTAK
(Immigration File #A95 701 494),
Petitioner

-against-

U.S. CITIZENSHIP & IMMIGRATION
SERVICE, DISTRICT DIRECTOR,
NEW YORK DISTRICT, DHS SECRETARY,
ATTORNEY GENERAL, FEDERAL BUREAU
OF INVESTIGATION

COMPLAINT FOR
MANDAMUS

Respondents



Petitioner Sameer Kotak, by his attorney Rakhel Speyer Milstein, respectfully shows to this Court and alleges the following:

1. Whereas the United States District Court for the Eastern District of New York has jurisdiction of this complaint under the provisions of Title 5 Chapter 7, U.S.C. §§ 701-706; Title 8 U.S.C. §§ 1329, 1447; Title 28 U.S.C. §§ 1331, 1361.
2. This is an action for mandamus compelling the U.S. Citizenship and Immigration Service to adjudicate Petitioners' application for adjustment of status in accordance with 8 C.F.R. § 245.
3. The federal judiciary's authority to consider whether immigration policies and procedures violate constitutional rights and protections is found in U.S. Const. art. I, § 8, cl. 4. In addition, the United States Supreme Court has stated that district courts have jurisdiction to render equitable relief for constitutional, statutory, and procedural challenges concerning immigration matters. *McNary v. Haitian Refugee Center, Inc.*, 498 U.S. 479, 484, 494 (1991).
4. Venue is proper in this court, pursuant to 28 U.S.C. § 1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the district where Petitioners reside. No real property is involved in this action.
5. The Petitioner, Sameer Kotak, resides in the State of New York within the jurisdiction of the United States District Court for the Southern District of New York.

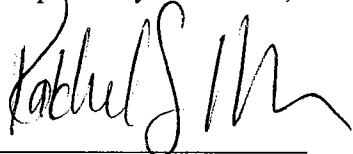
The Respondents are the U.S. Department of Homeland Security – U.S. Citizenship and Immigration Services (“USCIS”) located at 26 Federal Plaza, New York, NY 10278; the Attorney General, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001; the Federal Bureau of Investigation J. Edgar Hoover Building, 935 Pennsylvania Avenue, NW, Washington, DC 20535-0001; and the Office of the U.S. Attorney in the Southern District of New York, 86 Chambers Street, 3rd Fl., New York, NY 10007.

6. Petitioner Sameer Kotak is an applicant for permanent residence residing at 25 Banks Street, #208-D, White Plains, NY 10606 (Alien #95 701 494).
7. Petitioner was interviewed on two occasions by the U.S. Citizenship and Immigration Services in connection with his application for permanent resident status. His first interview was in Santa Ana, CA on July 15, 2005. His second interview was in New York, NY on May 30, 2007. (See **Exhibit A**).
8. More than two years have passed since his Adjustment of Status application was filed and he is still awaiting the approval of his application. (See **Exhibit B**).
9. Petitioner was fingerprinted three times since he filed his Adjustment of Status application: June 16, 2005, July 28, 2006 and June 19, 2007. (See **Exhibit C**).
10. Accordingly, Respondents have neglected to adjudicate Petitioner’s adjustment of status application, thereby denying Petitioner his right to become a legal permanent resident of the United States.
11. Petitioners have experienced harm and anxiety as a result of the delay in their adjustment of status application.

WHEREFORE, Petitioner, Sameer Kotak, prays that:

- (a) The Court compel the USCIS or the FBI to complete adjudication of Petitioners’ adjustment of status application.
- (b) The Court award reasonable attorney’s fees pursuant to the Equal Access to Justice Act; and
- (c) Any other and further relief as this Court may deem appropriate in the interest of Justice.

Respectfully submitted,



Rakhel Speyer Milstein (RM 1709)
Assadi & Marks, LLP

Attorney for Plaintiff
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New York, New York 10019

Dated: August 16, 2007